IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1968 of 1997

For Approval and Signature:

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgement? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

BHUPENDRABHAI SHANTILAL SHAH

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 1968 of 1997

MR PREMAL R JOSHI for Petitioner No. 1

GOVERNMENT PLEADER for Respondent No. 1

MRS KETTY A MEHTA for Respondent No. 2

MRS KRISHNA G RAWAL for Respondent No. 3

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 08/04/2004

ORAL JUDGEMENT

The petitioner was elected as Up-Sarpanch of Bodakdev Gram Panchayat against whom, a no-confidence motion was moved on 21st March 1996. The resolution was passed by 3/4th majority and the no-confidence motion was passed on 3rd April 1996.

2.1 The petitioner preferred an appeal before the appellate Committee under Section 242 of the Gujarat Panchayats Act. The said appeal was allowed on the ground that the motion of no-confidence was not as per the prescribed form. Against the said order in appeal, the Gram Panchayat preferred Revision Application before the State Government which was allowed by judgment and order dated 24th February 1997 on the ground that the appellate Committee has no power under Section 242 of the Act to deal with such issues. Against the said decision, the petitioner has approached this Court.

3. While admitting this matter, this Court has not granted any stay against the order of the State Government and therefore, the no-confidence motion passed against the petitioner was implemented. Apart from that, the elections of the Panchayat were held prior to 1996 and as the term of the Panchayat is for five years, this petition has become infructuous. This petition is, therefore, dismissed as having become infructuous. Rule is discharged. No order as to costs.

(K.S. Jhaveri, J.)

Sreeram.